

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 3136 OF 2023

Niraj Rajaram More ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. Arjun Sanjay Pawar with Mr. Shrikant D. Patil, for
Applicant.

Mr. M. G. Patil, APP for State.

Mr. Vivek Kumatkar, PSI, Chikhali Police station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 4th NOVEMBER, 2023

PC:-

1) Heard the learned counsel for the applicant and the
learned APP for the State.

2) This application is preferred for pre-arrest bail in
connection with C.R. No. 637 of 2023, registered with Chikhali
Police Station, for the offences punishable under Sections 307,
323, 504, 506(2), 143, 147, 148, 149 of Indian Penal Code, 1860
("the Penal Code") and Section 25 read with Section 3 of Arms
Act, 1959.

3) On 28th September, 2023, there was a quarrel during
Ganesh Immersion procession. On the next day, the first

informant was called by Kishor, the co-accused, near Narayan Housing Society. The applicant and the co-accused were present thereat. The applicant and the co-accused allegedly assaulted the first informant by fist and kick blows. When he tried to flee away, other accused Munna Tiwari, Sonya Tiwari and Saurabh Shinde accosted him and Munna assaulted him by means of iron rod on his head. Sonya and Saurabh assaulted him by means of cement blocks. The applicant came thereat and he also started to beat him. The applicant has allegedly pointed a pistol at the first informant and threatened to kill him.

4) The learned Counsel for the applicant submitted that, in fact, the applicant, who is cousin of the first informant, had tried to save the first informant from the clutches of the co-accused. However, the applicant has been falsely attributed the role of having shown pistol on account of the family dispute between the applicant and the first informant. It was submitted that the CCTV footages do not indicate that the applicant had allegedly threatened the first informant out of his life by pointing a pistol.

5) From the perusal of the FIR, it becomes evident that the role of assault by means of iron rod has been attributed to the co-accused – Munna. The injury certificate indicates that the

applicant has sustained a head injury. Prima facie, it appears that the injury is attributable to the assault perpetrated by co-accused – Munna. It also appears that the first informant claimed that two different sets of assailants initially assaulted him and, thereafter, all the assailants jointly assaulted him.

6) I have perused the Panchanama of the CCTV Footage. The applicant has not been attributed the role of assault. On the contrary, the Panchanama records that the applicant did not make any effort to save the first informant and, therefore, there was tacit consent on the part of the applicant.

7) In the aforesaid view of the matter, neither the role of assailing, the first informant by means of any weapon nor giving threat by pointing the pistol can be said to have been prima facie borne out by material on record.

8) I am, therefore, inclined to exercise the discretion in favour of the applicant.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 637 of 2023, registered with Chikhali Police Station, for the offences punishable under Sections 307, 323, 504, 506(2), 143, 147, 148, 149 of Indian Penal Code,

1860 and Section 25 read with Section 3 of Arms Act, 1959, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend Chikhali police station on 9th and 10th November, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the Investigating Officer.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

IV) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]